

**STATE OF WISCONSIN
DEPARTMENT OF COMMERCE**

IN THE MATTER OF- The claim for
Reimbursement under the PECFA
Program by

Allen Pethke
4337 S. Howell Avenue
Milwaukee, WI 53207

MADISON HEARING OFF CF.
1801 Aberg Ave, Suite A
P.O. Box 7975
Madison, WI 53707-7975

**Hearing Number: 01-193
PECFA Claim Number: 53207-5029-37**

FINAL HEARING OFFICER DECISION

This is a final decision of the Department of Commerce. You may request a rehearing pursuant to §227.49, Stats., within 20 days of the date of this decision, by sending your petition to Dermis Kozich, Chief Counsel, Department of Commerce, P.O. Box 7970. This decision may be appealed within **30 days of the** date of this decision or the date of a decision on a request for rehearing, if any, pursuant to §227.53, Stats. The parties in interest are the Secretary, Department of Commerce, 201 West Washington Ave., 6th Floor, P.O. Box 7970, Madison, WI 53707-7970 and the appellant named in the appeal caption above.

STATE HEARING OFFICER:

DATED AND MAILED:

Gretchen Mrozinski

September 24, 2001

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Mailed to:

Appellant Agent or Attorney

Department of Commerce

John A. Kisiel
Assistant Legal Counsel
P.O. Box 7838
Madison, WI 53707-7838

**STATE OF WISCONSIN
DEPARTMENT OF COMMERCE**

In the Matter of the PECFA Appeal of

Allen Pethke
4337 S Howell Avenue
Milwaukee, WI 53207

PECFA Claim # 53207-5029-37
Hearing # 01-193

FINAL DECISION ON DEPARTMENT'S MOTION TO DISMISS

The Department of Commerce ("Department") has moved for the dismissal of the claimant's appeal on the grounds that the appeal is untimely.

The Department's decision in this matter was dated and mailed on March 30, 2001. The Department received the claimant's appeal on May 21, 2001. The appeal was filed in excess of 30 days from the date of the decision. Wisconsin Admin. Code § COMM 47.53 specifies that all appeals shall be filed no later than 30 days from the date of the decision appealed. The claimant contended that he did not receive the complete decision—particularly the portion explaining the 30-day appeal period, and therefore did not know that he was required to appeal within 30 days. This contention is not persuasive.

To begin with, the Department presented persuasive evidence that the claimant was mailed the entire decision, including the 30-day appeal information, on March 30, 2001. In addition, the claimant had received a separate, PECFA decision in April 2000. The claimant successfully filed an appeal to that decision within a timely manner. As such, the claimant knew or should have known of the 30-day deadline for appealing the March 2001 decision. Accordingly, the claimant's argument that he was unaware of the 30-day deadline or that he did not receive the entire decision is not persuasive. Therefore, the claimant's argument that his late appeal should be allowed is without merit.

The Department of Commerce's Motion to Dismiss is granted. The claimant's appeal is dismissed.

Dated and mailed this ~ day of September 2001.

BY: Gretchen Mrozinski
Administrative Law Judge
Madison UI Hearing Office
1801 Aberg Ave, Suite A
P.O. Box 7975
Madison, WI 53707-7975